

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0565P

**Gross and Adjusted Gross Income Tax
Calendar Years Ended 12/31/94, 12/31/95, and 12/31/96**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is incorporated in Pennsylvania and manufactures specialty steel parts used by manufacturers.

Upon audit, it was discovered that the taxpayer failed to addback real estate tax, include all rents in the property factor and failed to correctly carry Net Operating Losses. In addition, taxpayer underreported their liability by 46% for 1994, 22% for 1995 and 3% for 1996.

Taxpayer maintained inventory in Indiana and employed a resident salesperson in 1994.

In a letter dated August 31, 1998, taxpayer requests the department waive the penalties.

1. Tax Administration –Penalty

DISCUSSION

Taxpayer was assessed a penalty for failure to add back real estate tax, to include all rents in the property factor and to correctly carry Net Operating Losses.

Taxpayer states the understatements were caused by oversight and misunderstanding of the tax

law and not a result of any intent to avoid taxes. Further, they have always been timely and consistent in the filing of their taxes.

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The issues addressed in the audit are clear in the Indiana Code and Regulations. The taxpayer was negligent in not making itself familiar with the code and regulations.

FINDING

Taxpayer's protest is denied. The penalty is proper.